IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

JOHN McGUINNESS, DIANE ELLER, JESS V. CLAMPITT, JR. and RONNIE CLAMPITT, ROBERT and EARLENE von der OSTEN, STEPHEN ZUCKER, NANCY MOSTELLER, JOHN MAKAR and AURELIA STONE,	**Civil Action No. 1-15-CV-72**
Plaintiffs,	**PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGEMENT**
vs.	**Oral Argument Requested**
UNITED STATES FOREST SERVICE,	
Defendant.	

NOW COME the Plaintiffs, by and through counsel, and pursuant to Fed. R. Civ. P. 56 and Local Rule 7.1(A), respectfully move the Court to grant summary judgment in their favor on the First, Second, Fourth, and Fifth Claims, as well as on the sub-claims of the Third Claim at sub-paragraphs 107.b., c., d., e., f., and g. in their Complaint (Dkt # 1), for the reasons stated in the accompanying Memorandum in Support of Plaintiffs' Motion for Summary Judgment.

As grounds for this motion, Plaintiffs state that there is no genuine issue as to any material fact in this matter and that they are entitled to judgment on the above-referenced claims as a matter of law. Plaintiffs also state that Defendant United States Forest Service has violated the National Environmental Policy Act of 1969 at 42 U.S.C. §§ 4331, *et seq.* and its applicable implementing regulations, and North Carolina state statutes at N.C.G.S. § 105-230(a) and

N.C.G.S. § 105-230(b), by preparing an inadequate and erroneous Environmental Assessment; by preparing an arbitrary and capricious Finding of No Significant Impact and Decision Notice approving the Clay County Shooting Range project; by failing to prepare and circulate for public review an Environmental Impact Statement for the project; and by approving a patently invalid contract under state law. Therefore, summary judgment in favor of Plaintiffs is warranted as a matter of law.

In support of this Motion, Plaintiffs rely upon the Memorandum in Support of Plaintiffs' Motion for Partial Summary Judgment; all the pleadings heretofore filed by the parties; and to the Administrative Record (this document has no docket number, as it was filed conventionally with the Clerk of Court in the Asheville office) and Administrative Record – Part 2 (this document has no docket number, as it was filed conventionally with the Clerk of Court in the Asheville office) lodged by the Defendant with this Court, and together which establish that there is no genuine issue of any material fact in this action. Accordingly, Plaintiffs respectfully move the Court for entry of an Order granting partial summary judgment in their favor on all above-referenced claims and prayers for relief.

Respectfully submitted on this, the 31st day of May, 2016.

s/ *Perrin W. de Jong*
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing by properly filing the foregoing with the Clerk of Court using the CM/ECF system, and through which an email notice of this filing will be sent to all parties indicated on the electronic filing receipt; or by first class U.S. mail, postage prepaid, and properly addressed to:

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This, the 31st day of May, 2016.

s/ Perrin W. de Jong
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